IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

Crl.MC.No. 2126 of 2007()

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CC.358/2003 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, DEVICOLAM

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PETITIONER: 1ST AND 3RD ACCUSED;

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1. SUNIL DAS, S/O.NARAYANAN,
   THANDAMPARAMBIL VEETTIL, ELIGIPRA, KODASSEERI
   VILLAGE, MUKUNDAPURAM TALUK, TRISSUR DISTRICT.

2. RAJU @ THOMAS, S/O.VARGHESE,
   KALAPPURACKAL HOUSE, PALLIPURAM,
   PALLIPURAM VILLAGE, MUKUNDAPURAM TALUK,
   TRISSUR DISTRICT.

BY ADV. SRI.N.K.KARNIS
SRI.LATHEESH SEBASTIAN

RESPONDENTS: STATE AND COMPLAINANT:

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1. STATE OF KERALA REPRESENTED BY
   DIRECTOR GENERAL OF PROSECUTIONS,
   HIGH COURT OF KERALA, ERNAKULAM.

2. FOREST RANGE OFFICER, MARAYOOR FOREST
   RANGE, MARAYOOR , IDUKKI DISTRICT.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R.BASANT, J.**

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Crl.M.C.No.2126 of 2007

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Dated this the 3rd day of July 2007

**O R D E R**

The petitioners face indictment in a prosecution for offences punishable under Sections 27(1)(e)(III) & (IV) of the Kerala Forest Act. The case was registered as early as in 2003. Consequent to non-availability of the petitioners before the learned Magistrate, warrants of arrest have been issued against the petitioner.

2. According to the petitioners, they are absolutely innocent. Their failure to appear before the learned Magistrate was not wilful and was on account of reasons beyond their control. They are prepared to surrender before the learned Magistrate. But they apprehend that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. They, therefore, pray that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

2. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which they could not earlier appear before the learned Magistrate.

3. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

**(R.BASANT, JUDGE)**

jsr // True Copy// PA to Judge

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007